

# REQUEST FOR COUNCIL ACTION

MEETING  
2-3-03

103'

AGENDA SECTION: PUBLIC HEARING	ORIGINATING DEPT: PLANNING	ITEM NO. E-4
ITEM DESCRIPTION: Type III, Phase III Change in Use of a Nonconforming Use Permit #02-61 by John Case to allow for the change in use of a nonconforming use. The proposal is to change the use of the property from its current use (Haakenson Crane) to that of another nonconforming use (Rhino Linings of Rochester). The property is located on 55 <sup>th</sup> Street NW and the address is 4203 55 <sup>th</sup> Street NW.		PREPARED BY: Brent Svenby, Planner

January 23, 2003

## Planning Commission Recommendation:

The Rochester Planning and Zoning Commission considered this application at a public hearing on January 8, 2003. At the hearing Mr. John Case, the applicant, Inc. addressed the Commission. He explained the project and stated that he was in agreement with the conditions suggested by the Planning Department.

A couple neighboring property owners had questions on the screening of empty barrels being stored on the property.

The Planning Commission reviewed this request according to the applicable criteria and standards in the LDM. The Commission found that this request is consistent with those criteria and recommends approval subject to the following conditions or modifications:

## CONDITIONS:

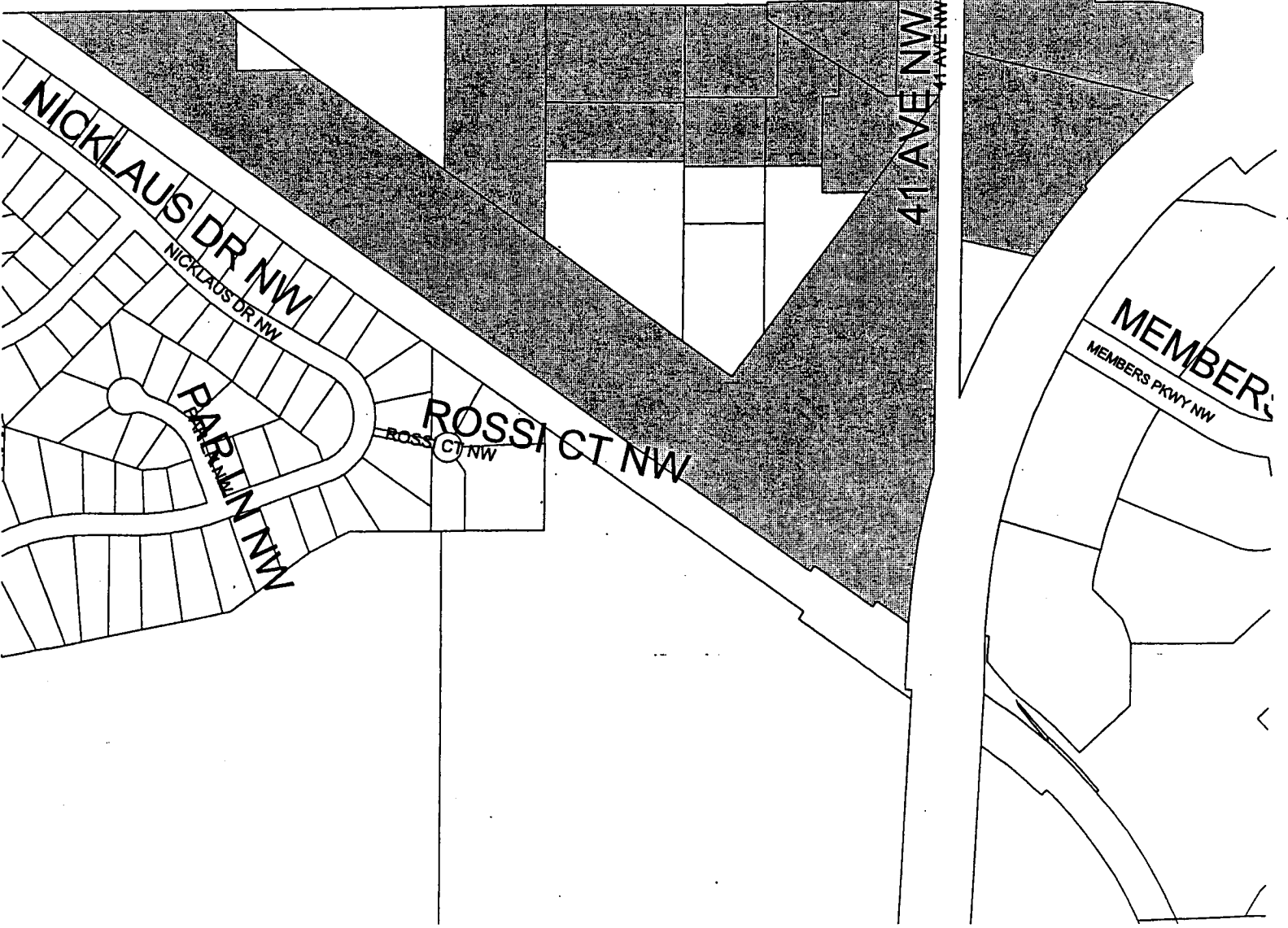
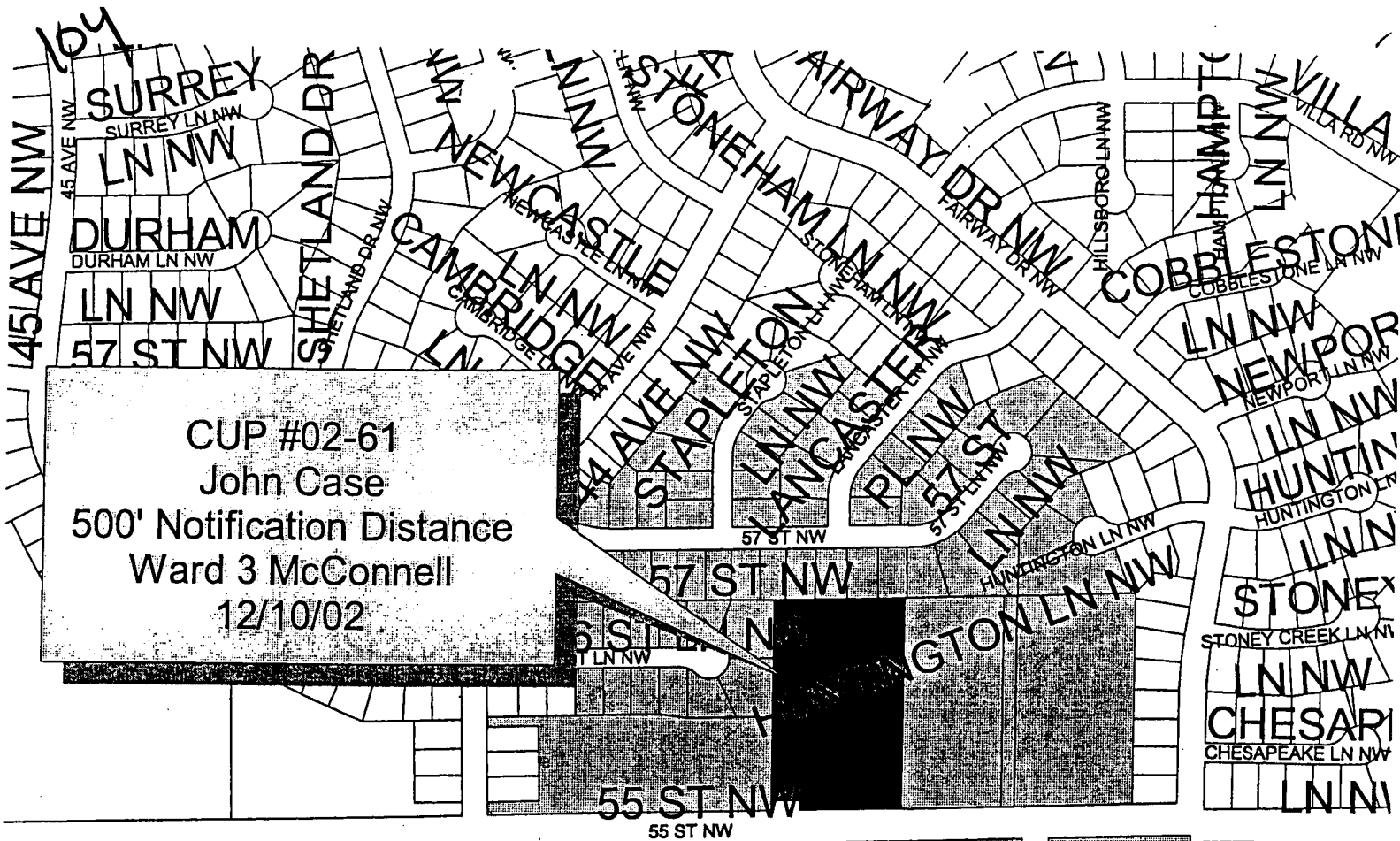
1. Signage for the business shall be consistent with the signage allowed for an office use in the R-1 zoning district.
2. The applicant shall execute a Utility Connection Agreement with the City of Rochester Public Works Department. The Connection Agreement shall include the Owner's obligations related to substandard street reconstruction charges and pedestrian facilities along the entire frontage of the property abutting 55<sup>th</sup> Street NW.
3. Any outside storage of vehicles and/or equipment or supplies associated with the proposed use of this property, must be stored within a completely enclosed area with solid screening. The area delineated on the site plan adjacent to the well house shall be used, unless materials or equipment being stored raise concerns with contaminating the well. In that case, staff may approve another location with similar setbacks and screening.

Ms. Wiesner moved to recommend approval of Type III, Phase III Change in Use of a Nonconforming Use Permit #02-61 by John Case with staff-recommended conditions. Ms. Petersson seconded the motion. The motion carried 8-0.

## Council Action Needed:

1. *If the Council wishes to proceed, it should instruct the City Attorney to prepare a resolution either approving, approving with conditions, or denying this request based upon the criteria included in the staff report.*

COUNCIL ACTION: Motion by: \_\_\_\_\_ Second by: \_\_\_\_\_ to: \_\_\_\_\_



N

336.0'

105'

200'±

100'

90'

71'

32'

42'

57'

SHOP

60'

16'

12'

HSE

300'

333'

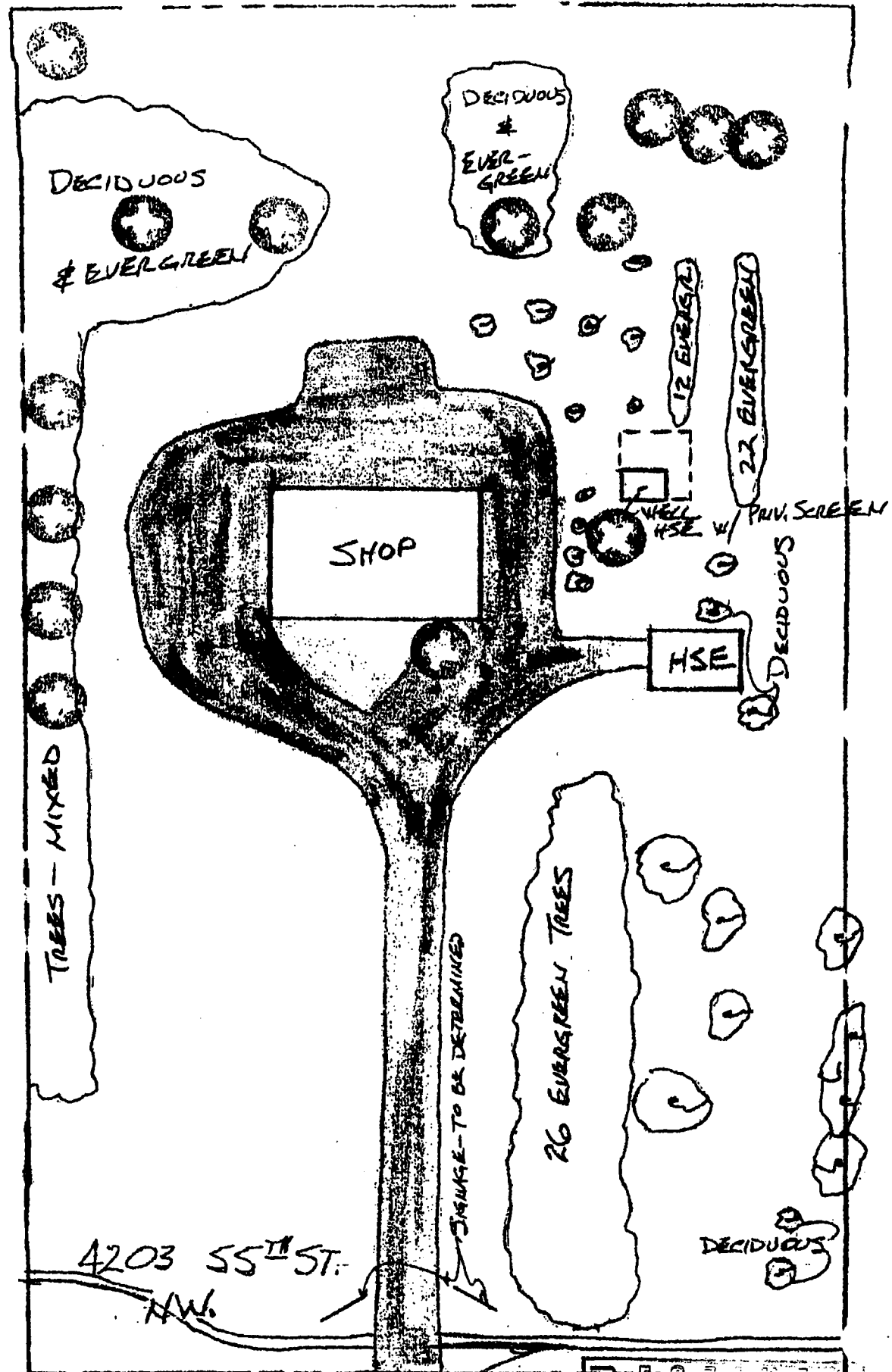
590.64'


LOADING DOCK

4203 55<sup>TH</sup> ST. N.W.

EXISTING CONDITIONS

R	RECEIVED	U
	NOV 26 2002	
ROCHESTER OLSTED PLANNING DEPARTMENT		

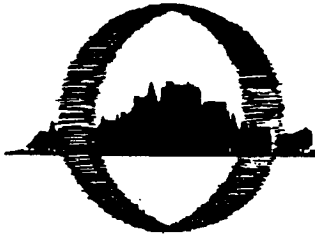


 TRASH.  
 WOOD  
 CONC  
 STEEL  
 OR  
 BRUSH

TREES ARE  
 EVERGREEN  
 UNLESS  
 NOTED

EXISTING CONDITIONS  
 EXCEPT  
 SCREEN TO HIDE  
 OS. STORAGE AT  
 WELL HOUSE &  
 SIGNAGE ADDED

BIKE RACK PATH  
 NOV 26 2002  
 ROCHESTER OLIMSTED



## ROCHESTER-OLMSTED PLANNING DEPARTMENT

2122 Campus Drive SE, Suite 100 • Rochester, MN 55904-4744

COUNTY OF

*Olmsted*

[www.olmstedcounty.com/planning](http://www.olmstedcounty.com/planning)



**TO:** City Planning & Zoning Commission

**FROM:** Brent Svenby, Planner

**DATE:** January 3, 2003

**RE:** Type III, Phase III Change in Use of a Nonconforming Use Permit #02-61 by John Case to allow for the change in use of a nonconforming use. The proposal is to change the use of the property from its current use (Haakenson Crane) to that of another nonconforming use (Rhino Linings of Rochester). The property is located on 55<sup>th</sup> Street NW and the address is 4203 55<sup>th</sup> Street NW.

### Planning Department Review

**Applicant:**

John Case  
dba Rhino Linings of Rochester  
3906 Commerce Court SW  
Rochester, MN 55902

**Property Owner:**

Betty Haakenson-Mount  
24949 French Drive  
Cleveland, MN 56017

**Permit Application:**

The applicant is requesting permission for a change in use of an existing non-conforming use under the provisions of Section 65.330, Change in Use, of the Rochester Zoning Ordinance and Land Development Manual. Section 65.330 establishes the review process for such a request as a Type III procedure utilizing a Phase III hearing process. Section 65.330 specifically requires that the review criteria found in this section be used by the Commission and Council to evaluate the proposal.

**Property Location:**

4203 55<sup>th</sup> Street NW.

**Zoning:**

R-1, Mixed Single Family District.

**Adjacent Land Use:**

The property is surrounded on the north, east and west sides by property zoned R-1 (Mixed Single Family) on the Rochester Zoning Map. To the north and west is the North Park Development which is a single family residential development.



To the south, across 55<sup>th</sup> Street NW, is Sunrise Cottages of Rochester.

**Summary of Proposal:**

The applicant is proposing to change a use of a nonconforming use to another nonconforming use. The most recent of the property was that of Hawk and Son's which is a commercial and industrial construction company specializing in cranes and rough terrain forklifts. The applicant is proposing to relocate his business to the property. The business proposed to be located here is Rhino Linings of Rochester. Rhino Lining is a sprayed-on polyurethane truck bed lining.

**Referral Agency Comments:**

1. RPU Water Division
2. RPU Operation Division
3. Rochester Public Works
4. MnDOT
5. Fire Department

**Attachments:**

Location Map  
Site Map  
Photos of the Building  
Referral Comments

**Explanation of Application and Review Procedures:**

The property is located at 4203 55<sup>th</sup> Street NW and is approximately 4.11 acres. The property is zoned R-1 and the use (commercial) of the property is considered a nonconforming use. There is single family residential dwelling and accessory building on the property. The accessory building was originally a barn for dairy operation and later converted to house the operation of a commercial construction company. The construction company specialized in crane and rough terrain forklifts. The office and the daily operation were moved from the property in October 2000 however the property is still being used for the storage of equipment and materials and as a shop.

An application has been filed to change the nonconforming use to another nonconforming use. A proposal has been filed to relocate Rhino Linings of Rochester to the property. Rhino Lining is a sprayed-on polyurethane truck bed liner which requires that the work preformed in a controlled environment. With this type of work, the work will be completed indoors. Currently the business has two employees and averages slightly less than two installations per day. One to three employees may be hired if the number of installations per day increases. The business would be open Monday thru Friday 8AM to 6 PM and on Saturdays by appointment.

Section 65.330 of the Zoning Ordinance specifically provided an opportunity for a change in use of a nonconforming use to another nonconforming use subject to the regulations of

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Section 65.330. Any nonconforming use of land or structure may be changed to another nonconforming use of the same nature or less intensive nature if no structural alterations are involved and if it is found that the relation of the structure and proposed use to surrounding property is such that adverse effects on occupants and neighboring property will not be greater than if the original nonconforming use continued. Approval for such a change shall be processed through the Type III review procedure, with a Phase III hearing process utilized and the factors that shall be weighted in making the determination on the permit shall include:

- 1) The character and history of the use and of development in the surrounding area.
- 2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line.
- 3) The comparative numbers and kinds of vehicular trips to the site.
- 4) The comparative amount and nature of outside storage, loading, and parking.
- 5) The comparative visual appearance.
- 6) The comparative hours of operation.
- 7) The comparative effect on existing vegetation.
- 8) The comparative effect on water drainage.
- 9) Other factors which tend to reduce conflicts of incompatibility with the character or needs of the area.

Maintenance and repair of the building will be subject to Section 65.130, Maintenance and Repair of Nonconformity. This section of the ordinance allows for maintenance and repair of the structure, however, the work is limited annually up to 15% of the County Assessor's Market Value or \$30,000, whichever is greater. The repair or modification can not increase the amount of floor area of the nonconforming use.

**Staff Recommendation:**

Upon review of the proposed change in use of this non-conforming use and its potential impact when compared to the nine (9) criteria the staff finds the following:

- 1) The use of the building has traditionally been use for commercial purposes. The building originally constructed to house a dairy operation has most recently been used to house a commercial construction company specializing in cranes and rough terrain forklifts.
- 2) There will be no discernable difference in noise, dust, odor, fumes, glare or smoke detectable at the property line. The type of business purposed requires that the work be completed under a controlled environment. All work done would be done inside of the building.
- 3) There would be an expected decrease in the typical number of vehicle trips to the site because there wouldn't be as many employees working out of the building plus the purposed business averages slightly less than two installations per day. Even with the

addition of additional employees the number of vehicle trips anticipated would be lower than would exist for the most recent use of the property.

- 4) Since the works requires a controlled environment, trucks would be parked inside prior to the installation of the bed liner. At the completion of the installation of the bed liner, vehicles may be parked outside until the customer returns to pick up the vehicle. There would be outdoor storage of barrels until the barrels are recycled. The applicant has stated that he would build a privacy screen to block the view of the barrels.
- 5) The visual appearance from the street will be indiscernible. It is expected that the change in use of the building will give the owner the opportunity to freshen up the exterior finishes to the existing building.
- 6) There would likely be less hours of operation on the property with the proposal than what is typically found with a construction company.
- 7) The applicant intends to remove the over grown and/or dead vegetation on the property. In addition to removing of some of the vegetation, old construction debris founded on the property will be removed and new landscaping established in those areas.
- 8) It is anticipated that there would be no effect on water drainage on the property with the change of use of the property.
- 9) With the nature of the business, requiring a controlled environment and that the work is completed indoors, it does not appear that change in use of the property would tend to reduce incompatibility with the character or needs of the area.

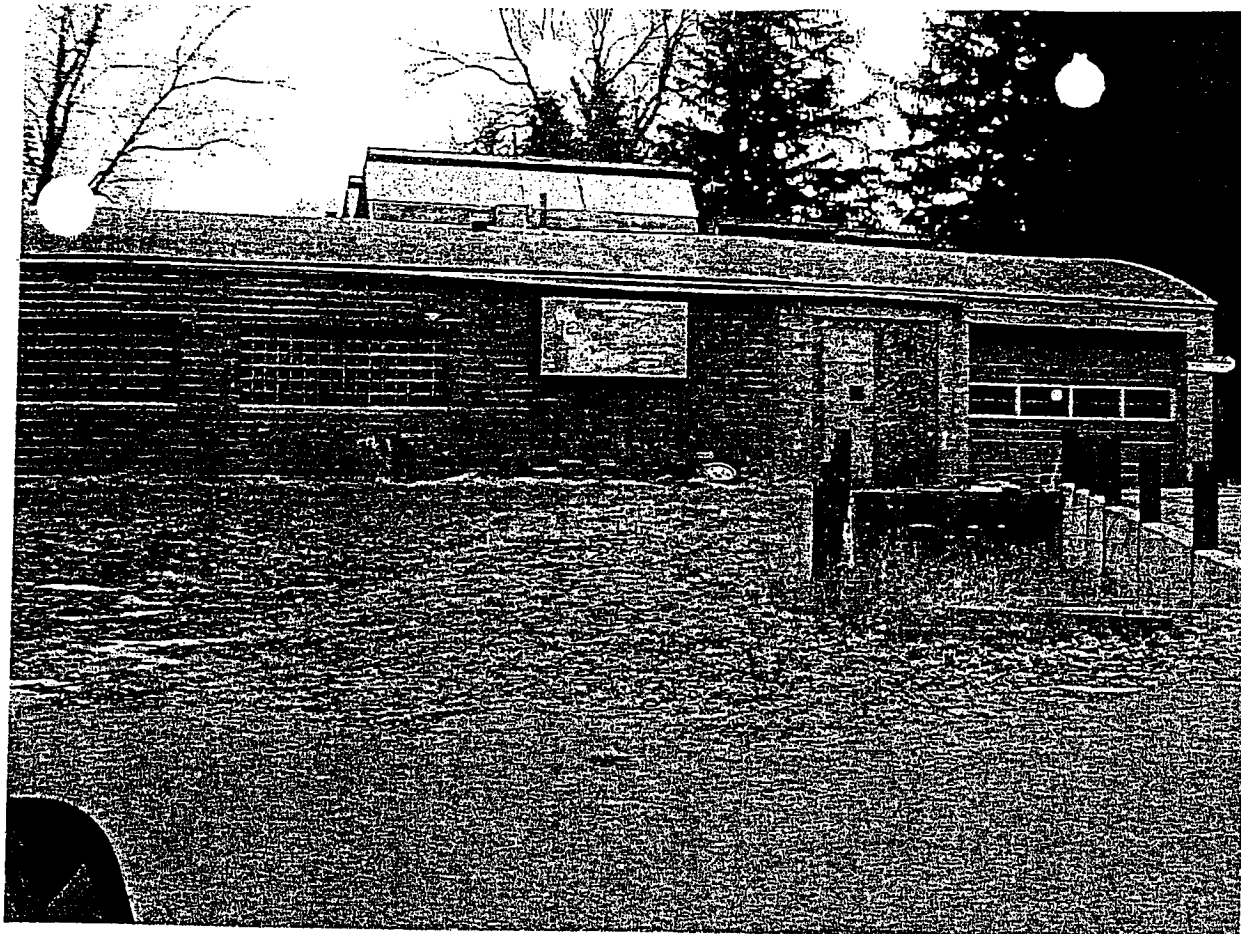
Based on the above listed findings, staff suggests that this request to change in use of a non-conforming use be recommended for approval by the Planning and Commission and approved by the City Council with the following conditions:

1. **Signage for the business shall be consistent with the signage allowed for an office use in the R-1 zoning district.**
2. **The applicant shall execute a Utility Connection Agreement with the City of Rochester Public Works Department. The Connection Agreement shall include the Owner's obligations related to substandard street reconstruction charges and pedestrian facilities along the entire frontage of the property abutting 55<sup>th</sup> Street NW.**

**Planning Commission Action:**

The CPZC should by motion make a recommendation on this request to the City Council. The City Council will consider this matter at the later date.

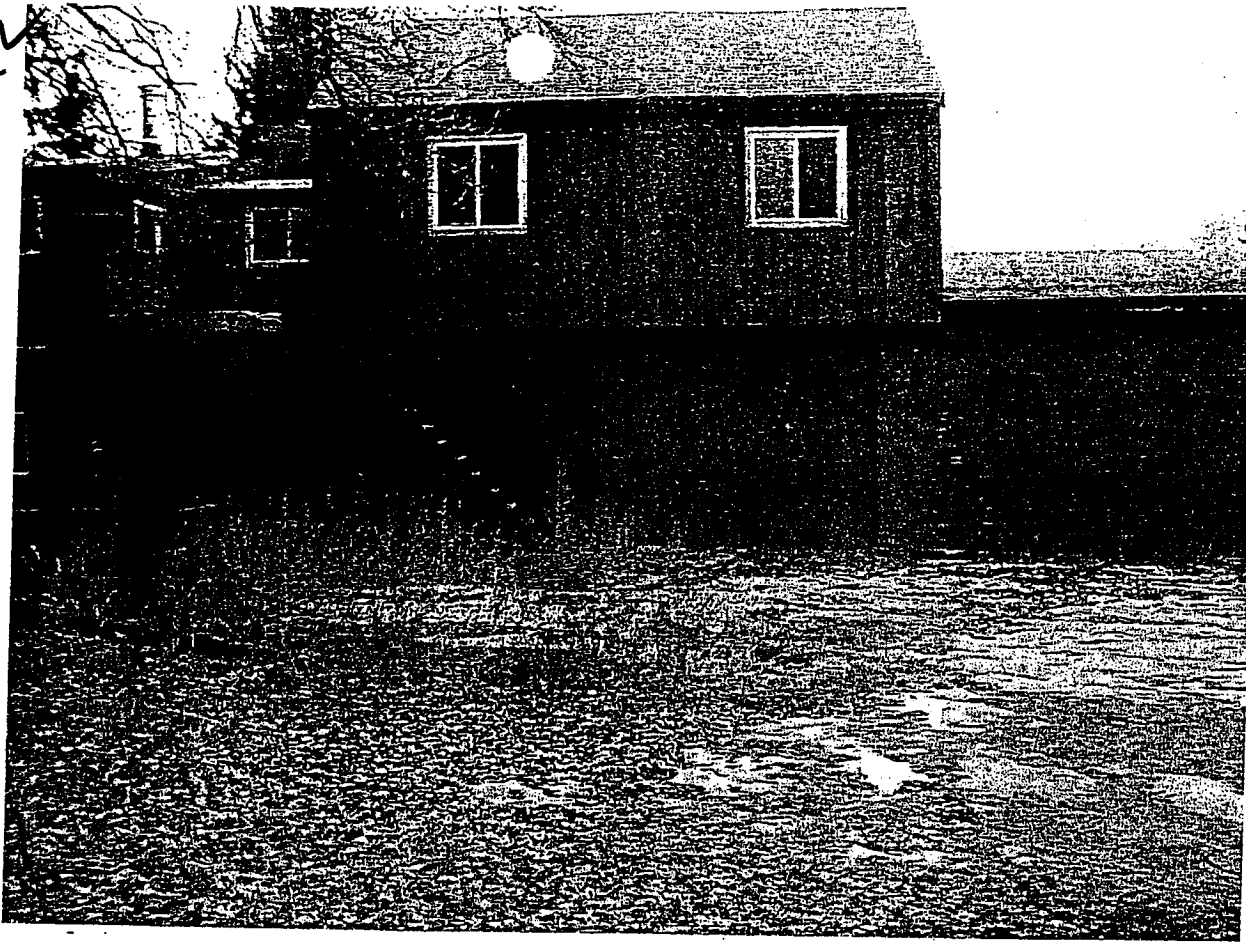




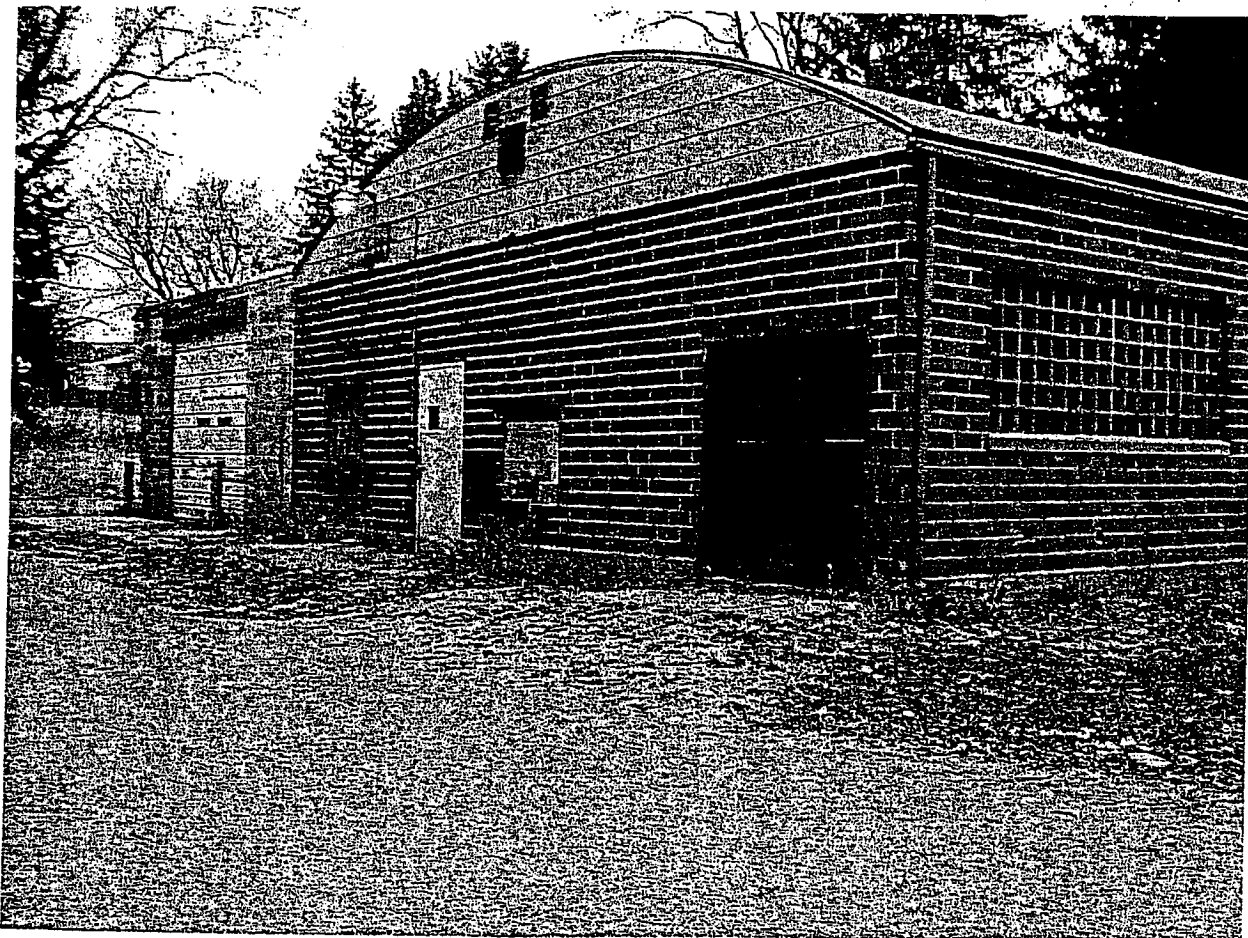
SOUTH SIDE OF BUILDING



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NORTH SIDE OF BUILDING



WEST SIDE OF BUILDING

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# ROCHESTER

— Minnesota —

TO: Consolidated Planning Department  
2122 Campus Drive SE  
Rochester, MN 55904

DEPARTMENT OF PUBLIC  
WORKS  
201 4<sup>th</sup> Street SE Room 108  
Rochester, MN 55904-3740  
507-287-7800  
FAX – 507-281-6216

FROM: Mark E. Baker

DATE: 12/27/02

Public Works has reviewed the requested Non-Conforming Use Permit #02-61 for the Case Property (4203 55<sup>th</sup> St NW). The following are Public Works comments on this request:

1. The approved sign location shall be outside the ROW, and in a location that does not adversely impact sight visibility.
2. Execution of a Utility Connection Agreement is required for this property prior to CUP approval. Said Connection Agreement will also include the Owner's obligations related to Substandard Street Reconstruction Charges, and Pedestrian Facilities along the entire frontage of the Property abutting 55<sup>th</sup> St NW.



# **Rhino Linings®**

## **RHINO LININGS OF ROCHESTER**

**3906 COMMERCE COURT SW ROCHESTER, MN 55902**

**(507) 280 8142**

Haakenson Property  
4203 55<sup>th</sup> Street NW  
Rochester, MN

Commercial use of property

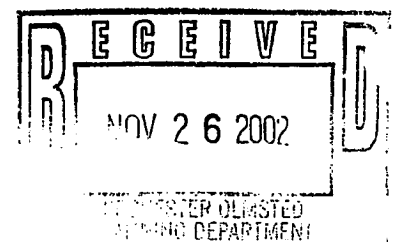
Code section 65.330

Nonconforming use of property change to another nonconforming use

The property at 4203 55<sup>th</sup> Street NW, Rochester, MN is described (on the legal abstract) as 336' on the South line (front) and also on the North line (rear). The property is 590.64' on both of the side lines.

The building on the property which is proposed for nonconforming commercial use is set back from the front approx. 320'. Set back from the West side line is approx. 100'. The remaining set backs are approx. 205' to the rear line and 146' to the East line.

Set backs obviously exceed code requirements.





## **RHINO LININGS OF ROCHESTER**

**3906 COMMERCE COURT SW ROCHESTER, MN 55902**

**(507) 280 8142**

Haakenson Property  
4203 55<sup>th</sup> Street NW  
Rochester, MN

Commercial use of property

Code section 65.330

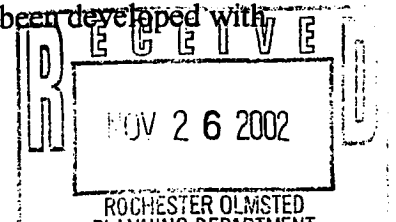
Nonconforming use of property change to another nonconforming use

Factors for determination:

1) Character and history of the use and of development of the surrounding area

The property was reported to have been a dairy operation in rural Rochester when built. Later the barn became the operation base for a growing construction company. The original business owner lived on the property in the adjacent residence. The expansion of the scope of the construction business introduced more and heavier equipment which included skid steer loaders, welder/generators, truck mounted cranes, rough terrain cranes, 30 ton to 80 ton chassis mounted cranes, rough terrain fork lifts, semi-trailers and tractors, as well as several pick-up trucks set up for contractor's use. The original owner/father died and the daily operation of the business shifted to the sons. The growth of the construction business continued. The seasonal nature of construction work results in fluctuating employment numbers apparently reached a maximum of about twenty including field personnel and office/shop staff. The office and the major part of the daily operation were moved to a new site beginning on October, 2000. Equipment and materials continued to be stored on the site. During a pre-purchase inspection of the property on October 10, 2002, tools, equipment, parts, and vehicles were still in the shop indicating continued use.

Rochester housing has expanded to the north and west with a pocket of old structure including 4203 55<sup>th</sup> Street NW. The area has also been developed with



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other non-residential structures including two churches, a senior's housing facility, and (most recently) and bank. All of these examples involve new construction on previously bare sites thus introducing new levels of impact upon the neighborhood.

The proposed commercial occupancy at 4203 55<sup>th</sup> St NW will return an operation where the owner is on the site daily. A tenant residing in the house on the property will create a degree of security for the area. The new owners propose to locate the following at the site (all owned by the purchaser): masonry construction company – which is being phased out, mobile pressure washing service – all contained in an enclosed trailer (cleaning is done at various remote locations), Rhino Linings of Rochester – a truck accessory business, and storage of equipment.

- 2) The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line.

The proposed business (Rhino Linings) must be completed under controlled environment conditions. Moisture and wind are both enemies of the application of the sprayed-on bed liners. Work is completed inside of the building. In the four year history of the business, one over-sized job necessitated building a temporary tent type connection to the shop at the current location. The process does not produce fumes, burning or smoke, equipment running at idle, or vibrations. No heavy equipment will be on site and semi truck traffic tends to average one delivery per month at the current location and work volume.

- 3) The comparable number and type of vehicle trips to the site.

Per information from the shop manager/tool coordinator for Hawk and Son's: 100 vehicle trips per day during busiest times of the construction season. Daily vehicle trip numbers average 50 throughout the year. 15 – 20 employees arrive at the shop then leave for the various job sites in company pick-up trucks. The reverse exchange of vehicles occurs at the end of the work day. Cranes, rough terrain fork lifts, and other construction site support vehicles and equipment moved onto and off of the site daily. Office staff also generated traffic.

The business proposing to occupy the site (Rhino Linings of Rochester) is operated by the business owners – husband and wife – without any employees. Currently, Rhino Linings business volume averages slightly less than two (2) installations per day. The proposed occupancy will, initially, generate approximately 10 vehicle trips per day (same as the traffic rate at the current location). The size of the 4203 55<sup>th</sup> Street building is forecasted to be able to support 2 or 2 ½ times the work of that of the current shop location. To realize that volume of work, one to three employees (depending upon the number of

hours worked by each employee) will be hired. Ultimate vehicle trips per day are not forecasted to exceed 25 – 30 trips per day. The physical restriction of the shop at 4203 55<sup>th</sup> St. will force another relocation of the business before the business grows to more than 5 or 6 jobs per day and the daily vehicle trips exceed 25 – 30 per day.

UPS and similar deliveries average 1 per week and may double in volume.

Deliveries by semi truck average 1 per month and are not forecast to ever average a full two per month. The trucks are on site approximately 30 minutes while loading or unloading.

4) Comparable amounts of outside storage, loading, and parking

Outside parking will consist of the owner's vehicle (x2) and possibly future employee's vehicles (x3)

Trucks waiting to be sprayed are parked inside (warm, clean, and dry)

Trucks with completed work may be parked outside until customer returns to the shop in the afternoon ( 2 – 3 units at current rate)

Rhino shop truck and the pressure washing trailer may be stored outdoors (during warm weather). The owners of Rhino Linings of Rochester have two "project trucks" in for rebuilding and modifying. Project trucks shall be parked near the existing well house when not being worked on.

Loading and unloading averages 1 truck per month

Outdoor storage is needed for empty barrels. Current habit is to recycle up to 26 barrels per trip. A privacy screen will be proposed to contain the barrels and block the view from the property lines. Rhino Linings proposes to construct the storage area for barrels and project trucks adjacent to the well house.

5) The comparative visual appearance.

Hawk and Son's construction maintained the property like most storage sites where minimal customer contact at the shop location allowed minimal site maintenance. The proposed use of the property will generate traffic consisting of owners of (mainly) new and expensive trucks to the building. The products sold by Rhino Linings of Rochester are marketed as up-scale and top of the line items. The property will be upgraded to reflect that same image. The front (south) of the building will be resided and a customer entrance will be created. General appearance and landscaping will be upgraded.

6) The comparative hours of operation.

Official hours of operation for Rhino Linings of Rochester are 8 AM to 6 PM Monday thru Friday. The hours are similar to the office hours of the construction company. Saturday hours are scheduled by appointment. The owners typically enter the business on the weekends.

7) The effect on existing vegetation.

Vegetation will not be radically effected except for the clean up of over grown and/or dead plants and trees. New planting may be added around the new customer entrance. Some debris in the form of broken concrete, pieces of steel, wood chunks, etc. remain on the site following the departure of the construction company. Such debris will be cleaned up and landscaping reestablished.

8) The effect on water drainage.

No effects on drainage will be noted at the property lines. Some hard surface paving may be added at entries.

9) Other factors which tend to reduce conflicts and incompatibility with the character and the needs of the area.

The operation of the Rhino Linings business requires that the trucks be absolutely dry and a minimum temperature. These requirements cause the work to be completed indoors for climate control. The first impression of the potential customer will dictate that the site appearance will be improved and maintained.

10) Signage.

Projected business signage will consist of dual masonry panels finished on all sides with appropriate lighting and size of lettering per zoning regulations.



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ANNEXATIONS:

Annexation Petition #02-25 by Mark Leitzen to annex approximately 54.98 acres of land. The property is in part of the NE ¼ of Section 24, Rochester Township. The property is located along the west side of County Road 1 and along the north side of US Highway 52.

Ms. Petersson moved to recommend approval of Annexation Petition #02-25 by Mark Leitzen. Ms. Rivas seconded the motion. The motion carried 8-0.

Annexation Petition #02-26 by Victor Scott to annex approximately 35.44 acres of land. The property is in that part of the NW 1/4 of Section 4, Cascade Township. The property is located south of 75<sup>th</sup> Street NW and along the east side of US Highway 52.

Ms. Wiesner moved to recommend approval of Annexation Petition #02-26 by Victor Scott. Mr. Haeussinger seconded the motion. The motion carried 8-0.

PUBLIC HEARINGS:

Type III, Phase II Conditional Use Permit request #02-60, by South Broadway Partners, LLC. The applicant is requesting approval for an excavation permit to allow for a substantial land alteration on property located north of 48<sup>th</sup> St. SE, east of T.H. 63 and south of the future 40<sup>th</sup> Street SE. The applicant proposes to change grades in excess of 10 feet or more on portions of the property and the grading work involves moving approximately 550,000 cubic yards of material within the property.

Mr. Staver stated that the applicant submitted a letter requesting that the item be tabled to March 26, 2003.

Ms. Petersson moved to table Type III, Phase II Conditional Use Permit request #02-60, by South Broadway Partners, LLC to March 26, 2003. Mr. Burke seconded the motion. The motion carried 8-0.

\* Type III, Phase III Change in Use of a Nonconforming Use Permit #02-61 by John Case to allow for the change in use of a nonconforming use. The proposal is to change the use of the property from its current use (Haakenson Crane) to that of another nonconforming use (Rhino Linings of Rochester). The property is located on 55<sup>th</sup> Street NW and the address is 4203 55<sup>th</sup> Street NW.

Ms. Mitzi A. Baker presented the staff report, dated January 3, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Ms. Baker pointed out that a letter was submitted from the applicant providing a detailed explanation of the history of the property and the proposed use of the property. This letter is on file at the Rochester-Olmsted Planning Department.

Ms. Baker suggested the following additional condition: "Any outside storage of vehicles and/or equipment or supplies associated with the proposed use of this property, must be stored within a completely enclosed area with solid screening. The area delineated on the site plan adjacent to the well house shall be used, unless materials or equipment being stored raise concerns with

contaminating the well. In that case, staff may approve another location with similar setbacks and screening."

Ms. Wiesner asked if they would have to close the well due to being close to 55<sup>th</sup> Street NW and hook up to city services.

Ms. Baker deferred the question to the applicant.

Ms. Wiesner questioned what solid screening would be used.

Ms. Baker responded a wall or fence (something you cannot visually see through).

Ms. Rivas questioned if they would have to have a paved surface.

Ms. Baker responded that, since it was a change from a non-conforming use to a non-conforming use, they do not have to bring the property into full compliance.

Mr. Harford explained that the Commission could make paving the surface a condition of approval.

Mr. John Case, of 3630 Willow Heights Drive SW, Rochester MN, addressed the Commission. He stated that his current business address is 3906 Commerce Court SW, Rochester MN. He explained that they are looking to move their business due to highway construction on the intersection of 40<sup>th</sup> Street and Highway 63.

Mr. Case explained that his business is a small locally owned business providing accessories for vehicles. He stated that the materials are totally hazardous waste free. He indicated that he and his wife currently run the shop. The business averages approximately two cars a day. He indicated that he could only foresee the business growing to five vehicles per day.

Mr. Case stated that he could see tearing the buildings down and building a more suitable home for him and his wife in approximately 7-10 years and selling the business to someone who would move it to their home.

Mr. Case stated that he spoke with Mark Baker regarding a utility connection agreement.

Ms. Rivas questioned the amount of vehicles parked on the property.

Mr. Case responded that he owned two trucks of his own that he works on. He stated that he understands that the vehicles would need to be stored behind a fully enclosed area. He explained that only empty barrels would be placed outside, as they would need to be stored inside if full. He further explained when he takes the barrels off site.

Ms. Petersson asked if Mr. Case agreed with the staff-recommended conditions (including the one described by Ms. Baker).

Mr. Case responded yes.

Ms. Linda Birnbaum, of 4142 57<sup>th</sup> Street NW, Rochester MN, addressed the Commission. She stated that she did not understand non-conforming uses. She stated that the truck lining

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business is more of a car operation and she does not want a used car lot, junkyard, or car wash being put on the property.

Mr. Staver explained that the applicant would need to go through another public hearing process if the use of the property would change.

Ms. Birnbaum expressed concern with the barrels being completely screened from her property.

Ms. Birnbaum stated that she hoped the applicant would not remove any of the large evergreen trees, as there are nesting hawks.

Mr. Staver asked how many barrels would be stored outside at a given time.

Mr. Case responded 18. He explained that it wasn't cost effective to take barrels away every time he used one.

Ms. Petersson asked the applicant if he proposed to leave most of the big trees.

Mr. Case responded that he had no intention of getting rid of any trees, unless they are dying. He stated that he would speak with someone from the DNR regarding establishing prairie grasslands.

Mr. Mark Sorensen, of 4148 57<sup>th</sup> Street NW, Rochester MN, addressed the Commission. He expressed concern with smelling the products the applicant proposes to use.

Mr. Case stated that the chemical only smells for about 10 minutes and that it has a light musty odor that is not offensive.

Mr. Gerry Varsoke, of 4202 57<sup>th</sup> Street NW, Rochester MN, addressed the Commission. He expressed concern with not having a high enough fence to screen the vehicles and barrels from his property since it was 20 feet higher than the applicant's property.

Mr. Staver explained that the vegetation between the properties would remain.

Ms. Rivas asked Mr. Varsoke if he had an objection to the building being there when he purchased his property.

Mr. Varsoke responded that vegetation grew around the steel and other debris in the grass. He explained that the previous property owners did not have any large piles that could be viewed from his property like the barrels and vehicles would be.

Ms. Rivas noticed that Mr. Varsoke had many plantings on his property that would help screening as they matured.

Mr. Staver asked if Mr. Varsoke could see the existing well house at the present time from his property.

Mr. Varsoke responded that he was unsure what the well house looked like.

Discussion ensued of where the well house was located.

Mr. Varsoke stated that he could not see the well house from his property.

With no one else wishing to be heard, Mr. Staver closed the public hearing.

Ms. Wiesner moved to recommend approval of Type III, Phase III Change in Use of a Nonconforming Use Permit #02-61 by John Case with staff-recommended conditions. Ms. Petersson seconded the motion. The motion carried 8-0.

**CONDITIONS:**

1. Signage for the business shall be consistent with the signage allowed for an office use in the R-1 zoning district.
2. The applicant shall execute a Utility Connection Agreement with the City of Rochester Public Works Department. The Connection Agreement shall include the Owner's obligations related to substandard street reconstruction charges and pedestrian facilities along the entire frontage of the property abutting 55<sup>th</sup> Street NW.
3. Any outside storage of vehicles and/or equipment or supplies associated with the proposed use of this property, must be stored within a completely enclosed area with solid screening. The area delineated on the site plan adjacent to the well house shall be used, unless materials or equipment being stored raise concerns with contaminating the well. In that case, staff may approve another location with similar setbacks and screening.

General Development Plan #196 by Bamber Valley Development to be known as Bamber Valley Estates. The Plan incorporates approximately 59.13 acres of land to be developed with single family detached dwellings. The plan shows the property being served by both private and public roadways and a 7.09 acre private lake. The property is located along the north side of Salem Road SE and along the east side of Westhill Drive SE.

Mr. Staver explained that the applicant requested that item be continued to January 22, 2003.

Ms. Petersson moved to continue General Development Plan #196 by Bamber Valley Development to be known as Bamber Valley Estates to January 22, 2003. Ms. Rivas seconded the motion. The motion carried 8-0.

General Development Plan #197 by GR Development Inc. to be known as Fieldstone (formerly known as Flagstone). The Plan incorporates approximately 146 acres of land to be developed with single family detached dwellings. The plan shows the property being served by both private and public roadways and does provide an area for a public park. The property is located along the west side of 18<sup>th</sup> Avenue SW, north of the Hart Farm Subdivision and south of Institute Hills.

Ms. Mitzi A. Baker presented the staff report, dated January 2, 2003, to the Commission. The staff report is on file at the Rochester-Olmsted Planning Department.

Ms. Rivas asked what the length of the cul-de-sac going to the west was, and what the maximum limit was.